

**BEFORE**  
**THE PUBLIC SERVICE COMMISSION OF**  
**SOUTH CAROLINA**  
**DOCKET NO. 2009-431-T ORDER NO. 2010-\_\_\_\_\_**

IN RE:	)	
	)	ORDER DENYING
Application of Kenneth Landert d/b/a	)	APPLICATION FOR CLASS C
Kountry Trans. (f/k/a Kenneth J. Landert	)	CERTIFICATE OF PUBLIC
d/b/a Kountry Limo) for a Class C	)	CONVENIENCE AND
(Charter) Certificate of Public	)	NECESSITY FOR OPERATION
Convenience and Necessity for	)	OF A MOTOR VEHICLE
Operation of Motor vehicle Carrier	)	CARRIER
	)	
_____	)	

**INTRODUCTION**

This matter comes before the Public Service Commission of South Carolina (“Commission”) on the Petition to Intervene filed by Yellow Cab Company of Greenville, Incorporated. The Petition requests that the Commission deny the Application of Kenneth Landert d/b/a Kountry Trans. (formerly known as Kenneth J. Landert d/b/a Kountry Limo) for a Certificate of Public Convenience and Necessity. For the reasons set forth below, the Commission denies the Application of Kenneth Landert d/b/a Kountry Trans. (formerly known as Kenneth J. Landert d/b/a Kountry Limo) for a Certificate of Public Convenience and Necessity.

**BACKGROUND**

In its application seeking a Class C (Charter) Certificate of Public Convenience and Necessity Landert sought the following scope and authority:

PC&N PASSENGERS, AS DEFINED IN 26 S.C. Code Ann. Regs § 103-133 (4) (Supp. 2008):

All Counties in South Carolina Greenville County being his base.

In reaching its decision, the Commission made certain findings of fact based upon the evidence of record as supplied by the testifying witnesses: Keith Mahaffey, Michael Evans, and Don Grant all independent contractor taxi drivers in the Greenville area, John Bacot, owner of Yellow Cab Co. of Greenville Inc., Patty Vowell, Investigator for Office of Regulatory Staff (“ORS”) and the applicant himself, Mr. Kenneth Landert.

### **YELLOW CAB COMPANY OF GREENVILLE’S PETITION**

In its petition Yellow Cab Company of Greenville contends that Kenneth J. Landert does not meet the requirements of the statutes and regulations required for a certificate of PC&N Class C Charter therefore requests that the applicant be denied authority.

### **DISCUSSION**

A three hour hearing was held on Feb 2, 2010 which included testimony from the applicant and from the intervenor as well as three independent contractor taxicab drivers from the Greenville area, Keith Mahaffey, Michael Evans, and Don Grant. Additionally, the Commission heard testimony from Patty Vowell, an investigator for ORS.

The applicant testified he ceased driving for a certified carrier in March 2009 and began operating his own business. Mr. Landert claimed numerous years of experience and extensive knowledge of vehicle for hire operations yet instead of obtaining the proper authority from the PSC, Mr. Landert began operating as a taxicab while holding himself out to the public as a limousine. His vehicle had not been inspected, there has been no proof that it was insured properly and by his own admission he took approximately four

thousand (4,000) calls between March 2009 and October 2009 making \$20,000 in fares without any authority from the PSC or any other jurisdiction.

All three taxi drivers testified that Mr. Landert attempted to and did intercept their passengers with claims of lower prices and safer driving. Contrary to Mr. Landert's assertions about his safe driving, his 10 year driving record shows numerous violations, accidents and suspensions. One suspension was for excessive points and one other for failing to maintain financial responsibility. Mr. Bacot testified that Mr. Landert's lease had been terminated at Yellow Cab Co. of Greenville for running a taxicab into a tree causing damages in excess of \$1,500.00

The evidence reflects not only was Mr. Landert not authorized to carry passengers for hire by the PSC but that he that he wasn't licensed anywhere. The applicant testified he thought the letter he received from the PSC acknowledging receipt of his application was the authority he needed to operate, but Mr. Bacot, an owner of Yellow Cab Company of Greenville testified that he personally spoke to Mr. Landert on several occasions between March 2009 and October 2009 informing him of his need to get proper authority from the PSC and was told by Mr. Landert that "it was cheaper to pay the fines than to stop operating". After numerous complaints to O.R.S., Patty Vowel an enforcement officer was dispatched to stop Mr. Landert's illegal activity. She stated she tried several times to intercept him but was unsuccessful. It was only when she conducted an undercover sting operation that she was able to confront Mr. Landert and issue him a citation. Mr. Landert testified that he informed the court he could not pay the reduced fine of \$300 and asked to be put on a payment plan. When asked whether he had been providing taxicab or limousine services during the time he admitted to making the four

thousand or so calls while operating without authority Mr. Landert replied he "didn't know".

Mr. Landert stated he "didn't know" he was operating without authority and it was only when he was cited in October 2009 that he discovered he had not been given authority to carry passengers for hire. He further testified that he has not violated commission regulations since October 2009. However, the testimony from the three taxicab drivers contradicts this claim. All three taxicab drivers testified they have seen Mr. Landert soliciting, carrying and receiving payment from passengers at the establishments they frequent after October 2009 and up to a week before this hearing. All three drivers stated they had lost fares and revenue to Mr. Landert's illegal operation. Mr. Landert attempted to establish that these pickup points were outside the scope of the PSC requirements by claiming they were in the municipality of Greenville. Even if these establishments were in the city of Greenville or within 2 miles of the city, Mr. Landert would still be required to possess a Greenville city permit which he did not have. Mr. Bacot testified that he knew who was licensed to do business in Greenville and Mr. Landert was not one of them. Mr. Landert did not rebut this testimony nor the testimony that he had continued illegal operations.

Mr. Landert has operated without any permits or licenses for months and his continued operation following his citation coupled with his prior suspensions, accidents, and violations shows a general and continued unwillingness to follow the laws and regulations applicable to him and is evidence he is unfit for the authority he seeks. Furthermore, Mr. Landert's history of poor driving and lack of financial responsibility as evidenced by his driving record and his inability to pay for the citation for operating

illegally demonstrate his lack of ability, willingness, or fitness that is required to be demonstrated prior to the issuance of a Certificate of Public Convenience and Necessity..

### **CONCLUSION**

After hearing the testimony and reviewing the record in this matter we find the applicant has not shown he is fit willing and able to perform the services he seeks to perform and deny the application for a Class C Charter Certificate.

BY ORDER OF THE COMMISSION:

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Elizabeth B. Fleming, Chairman